



Linda S. Adams
Secretary for
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State Water Resources Control Board

Division of Financial Assistance

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1800-813-FUND (3863) FAX (916) 341-5806 • www.waterboards.ca.gov/water_issues/programs/ustcf/



Arnold Schwarzenegger
Governor

March 19, 2009

To: Underground Storage Tank (UST) Cleanup Fund (Fund) Claimants

Re: **Appeal Process to Request Change to Priority Class B**

Priority Class "C" claimants who want to request that their claim be assigned to the higher Priority "B" classification must meet the following requirements and provide the information requested below.

Priority Class B is for small businesses that are independently owned and operated, not dominant in their field of operation, employ 100 or fewer employees (including all affiliates), and have average annual gross receipts of \$12 million or less (including all affiliates) over the three years prior to the date of the claim application.

If you wish to apply for assignment of your claim to Priority Class B, you must formally request a Fund Manager Decision (FMD) and submit the required documentation as outlined below:

1. Request an FMD and identify that you are appealing for a priority class change. The request letter must be signed by the claimant or a person authorized to sign for this claim, and must have an original ink signature.
2. Complete the Enclosed forms: "Request for Assignment of Claim to Priority Class B" and "Worksheet for Priority Class B Claimants."
3. Submit complete federal tax returns for the claimant and for each affiliate for three calendar years prior to the date of claim application submittal. As proof of gross revenues for the purposes of assignment to Priority Class B, the enclosed chart identifies the federal tax returns, the statement, and schedules that are required to be submitted.
4. Submit documentation supporting the number of employees for the claimant, the claimant's business, and any affiliates [i.e., Employment Development Department (DE-6) payroll reports] for the four quarters prior to the date of claim application submittal. Claimants must employ 100 or fewer full and part-time employees. Claimants who do not have any employees must submit a letter stating that they and their affiliates do not have any employees. This letter must be signed by the claimant under penalty of perjury and must have the claimant's original ink signature.



5. Submit an updated priority class worksheet if the claimant previously certified that any of the following individuals or entities were priority class C or D: joint claimants, owners or operators at the time of discovery of release, or owners or operators at the time of original application submittal. This worksheet can be found in section 21 of the current Fund application (revised January 2008). In addition to the updated worksheet, claimants must provide an explanation of why the priority class worksheet was previously incorrect.

The Fund will review these documents to determine eligibility for Priority Class B. A letter will be mailed to you upon final determination.

Submit your request along with the above documentation to:

Ronald M. Duff, P.E. Fund Manager
Underground Storage Tank Cleanup Fund
State Water Resources Control Board
Division of Financial Assistance
P.O. Box 944212
Sacramento, CA 94244-2120

Claim No. #####

Please Note: If you are the assignee of a claim, you must submit the required documentation for the eligible claimant (original assignor).

Please do not send your request for an FMD or any documentation via e-mail or fax.

If you have any questions, please contact the Fund at (800) 813-FUND (3863) or e-mail USTCleanupFund@waterboards.ca.gov.



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DIVISION OF FINANCIAL ASSISTANCE
UST CLEANUP FUND
P.O. BOX 944212
SACRAMENTO, CA 94244-2120

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**Request for Assignment of Claim to Priority Class B (Small Business)
Addendum to the UST Cleanup Fund Application**

Claim Number: _____

Name: _____

Site Address: _____

Description of Business: _____

To qualify as a small business, a business must be independently owned and operated, and not dominant in its field of operation. In addition, the business, together with all affiliates, must employ 100 or fewer employees and have average annual gross receipts of twelve million dollars (\$12,000,000) or less over the previous three years. However, if the business is a manufacturer, there is no revenue test, but the business, together with all affiliates, must employ 100 or fewer employees.

Please check the appropriate box below and provide the required information:

1. ☐ Check this box if you are submitting a small business certification from the Office of Small Business and DVBE Services (OSDS) to document the claimant's small business classification. Attach Certification.
2. ☐ Check this box if claimant is a **manufacturing business** that is independently owned and operated, is not dominant in its field of operation, and, together with all affiliates, employs 100 or fewer employees.
Total number of employees: _____
Submit documentation supporting the number of employees prior to the date of application to the Fund (i.e., Department of Employment Development (DE6) payroll reports for the last four quarters).
3. ☐ Check this box if claimant is **not a manufacturer**, is independently owned and operated, is not dominant in its field of operation, together with all affiliates employs 100 or fewer employees, and, together with all affiliates, has had average annual gross receipts of twelve million dollars (\$12,000,000) or less over the previous three years from the date of the claim application to the Fund.
Total number of employees: _____
Submit documentation supporting the number of employees prior to the date of the application to the Fund (i.e., Department of Employment Development (DE6) payroll reports for the last four quarters).

If you checked either box 2 or 3, please complete the Worksheet for Priority Class B Claimants.

Submit signed and dated copies of the complete federal tax returns, as shown on the Financial Document Submission Requirements Chart, for the three years prior to the date of application to the Fund, for the claimant and each affiliate. (Use the attached Worksheet for Priority Class B Claimants to identify affiliates.)

I (we) hereby declare under penalty of perjury that all facts and statements set forth above are true and correct to the best of my (our) knowledge and belief. This form is part of my (our) application to the California Underground Storage Tank Cleanup Fund, and I (we) understand that any misrepresentation made on this form may result in disqualification of the claim. Federal tax returns documenting the annual gross receipts, including all affiliates, will be retained for the life of the claim and for at least three years after the last reimbursement issued pursuant to this claim.

Executed at _____, on this _____ day of _____, 20_____

Claimant Signature: _____ Printed Name: _____

Claimant Signature: _____ Printed Name: _____

FINANCIAL DOCUMENT SUBMISSION REQUIREMENTS CHART

PRIORITY CLASS “B”

If the claimant does not submit a valid small business certification issued by the Office of Small Business and DVBE Services (OSDS), the claimant is required to submit the following federal tax returns (FTRs) or other financial documents for the claimant and each affiliate to determine gross annual receipts for Priority B classification. Claimants must submit complete FTRs, including all supporting schedules and forms, for the claimant and each affiliate **for the three years** prior to the date of application to the Fund.

| ENTITY TYPE | REQUIRED FINANCIAL DOCUMENTS | |
|---|---|--|
| INDIVIDUAL or SOLE PROPRIETORSHIP | Valid OSDS small business certification. | OR FTR 1040 for the last three years. <i>Provide the following for affiliates identified on Schedule E:</i> Partnership: Limited partner, submit K1. General partner, submit K1 and FTR 1065. S Corporation: If non passive income or loss is identified on Schedule E, submit FTR 1120S. *Estates/Trusts: All claimants must submit their K1. If a claimant is both a trustee and a beneficiary, submit K1 and FTR 1041. |
| *ESTATE/TRUST | Valid OSDS small business certification. | OR FTR 1041 for the last three years. <i>Provide the following for affiliates identified on Schedule E:</i> Partnership: Limited partner, submit K1. General partner, submit K1 and FTR 1065. S Corporation: If non passive income or loss is identified on Schedule E, submit FTR 1120S. *Estates/Trusts: All claimants must submit their K1. If a claimant is both a trustee and a beneficiary, submit K1 and FTR 1041. |
| PARTNERSHIP | Valid OSDS small business certification. | OR Submit FTR 1065 for the last three years. |
| CORPORATION | Valid OSDS small business certification. | OR Submit FTR 1120 for the last three years. Submit audited financial statements for the last three years |
| LIMITED LIABILITY COMPANY | Valid OSDS small business certification. | OR Filing as sole proprietorship: submit FTR 1040 for the last three years and Schedule E affiliate information, as required for individuals. Filing as a partnership: submit FTR 1065 for the last three years. Filing as a corporation: submit FTR 1120 for the last three years of record. |
| NONPROFIT | Annual fiscal report filed with the Registry of Charitable Trusts | OR Submit FTR 990 for the latest fiscal year. |
| LOCAL ENTITY | | Report of Financial transactions submitted to the State Controller for the latest fiscal year ending prior to the date of application |
| *NOTE: If a trust or estate has not filed a FTR, provide the appropriate FTRs for the appropriate individual or related entity. | | |

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Worksheet for Priority Class B Claimants

Claim Number: _____

Name: _____

Site Address: _____

Description of Business: _____

Answer the questions below to identify potential affiliates.

1. Claimant entity type:

- ☐ Individual or Sole Proprietorship
☐ Partnership
☐ Trust
☐ Corporation

- ☐ Limited Liability Company
☐ Limited Liability Partnership
☐ Joint Venture

2. Enter the names of all owners or shareholders of the claimant. Claimants that are corporations also must list all officers. (Attach additional paper, if necessary.)

| <u>Name</u> | <u>Title</u> | <u>Ownership %</u> | <u>Home Address</u> |
|-------------|--------------|--------------------|---------------------|
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

3. Claimants must answer "yes" or "no" to each of the eight questions below to identify potential affiliate business relationships.

During any of the relevant tax years, did the Claimant or its individual owners or officers:

- a) Have a controlling ownership interest in another business? ☐ YES ☐ NO
b) Share or have common owners with another business? ☐ YES ☐ NO
c) Share or have common management with another business? ☐ YES ☐ NO
(Management refers to the owners or officers that control the business' decisions and day to day operations.)
d) Have a family member(s) engaged in a similar or commonly related business activity to that of the claimant? ☐ YES ☐ NO
e) Have a financial relationship with another business, consisting of loans or assistance to meet bond, security, or credit requirements? ☐ YES ☐ NO
(Exclude those with public financial institutions.)
f) Have a contractual relationship between the claimant and another business consisting of assignments or transfer of title(s)? ☐ YES ☐ NO
g) Share facilities, equipment, or systems with another business? ☐ YES ☐ NO
h) Share employees with another business? ☐ YES ☐ NO

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Worksheet for Priority Class B Claimants (cont'd)

Claim Number: _____

Name: _____

- 4 If you answered "yes" to any question in the preceding section, in the first column below name each business that applies to the "yes" response. List a business only once, but identify all claimant relationships associated with that business. (Attach additional paper, if necessary.)

| Name & Address of Business (i.e., Potential Affiliate of Claimant) | Name of the Claimant's Owner or Officer that is Associated with the Named Business | Relationship of Claimant's Owner or Officer with the Named Business (include ownership %, if applicable) | Number of Employees of Named Business |
|--|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

5. Submit Federal Tax Returns (FTR) for each affiliate named above for the three years prior to the date of claimant's application to the Fund. The Fund will use information from the FTRs to calculate the amount of gross annual receipts and determine the claimant's appropriate Priority Class.